*THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

and

THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

+W.P.Nos.28882 of 1995, 4793 and 28497 of 1996

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% 10-11-2006

W.P.No.28882 of 1995:
#Guddi Malkapur Coop. House
Society ..Petitioner
rep. By its Secretary, K.Praveen Kumar
Vs.
$ 1. The L.A.O. Tarnaka, Hyderabad and another
..Respondents

W.P.No.4793 of 1996:
#Smt.Prakya
Dkshyani
..Petitioner

Vs.
$ 1. The L.A.O. Tarnaka, Hyderabad and another
..Respondents

W.P.No.28497 of 1996:
#Sarveshwar Rao and another ..Petitioners

Vs.
$ 1. The L.A.O. Tarnaka, Hyderabad and another
..Respondents

! Counsel for the petitioner: Sri Vijay Kumar Heroor
in W.P.No.28882 of 1995
Counsel for the petitioners: Sri N.Vasudeva Reddy
in W.P.Nos.4793 & 28497 of 1996

^ Counsel for the 1st respondent in all W.Ps.: Govt. Pleader for Land Acquisition

Counsel for the 2nd respondent in all W.Ps.: Mr.T.Niranjan Reddy.

< Gist:

>Head Note

? [1] (2005) 4 SCC 264
2 (1995) 5 SCC 746
[1] (1976) 3 SCC 24
4 (1996) 4 SCC 174

and

THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

W.P.Nos.28882 of 1995, 4793 and 28497 of 1996

Common Judgment: (per the Honourable Justice ***A. Gopal Reddy***)

When the writ petitions were taken up for hearing by a learned single Judge of this court, learned counsel for the respondents relied upon the judgment of the Supreme Court in ***STATE OF KARNATAKA*** *vs.* ***SANGAPPA DYAVAPPA BIRADAR***[1] to justify the rejection of request of the petitioners for reference under Section 18 of the Land Acquisition Act, 1894 (for short "the Act"). The learned judge felt that according to Sec.11 (2) of the Act prima facie, the agreement must be an agreement reached during the course of the proceedings under the Act and he is of the opinion that the language of Sec. 11(2) does not permit a construction which takes an agreement anterior to the initiation of the land acquisition proceedings within the sweep of the said sub-section. The above judgment does not deal with the specific question of the construction of Section 11(2) of the Act, and the matter requires an authoritative pronouncement by a Bench of appropriate strength, and therefore directed the Registry to place these matters before the Honourable the Chief Justice for appropriate orders. In pursuance of the said order, the matters were, thus, listed before us.

The facts giving rise to filing of the present writ petitions briefly stated as under:

The petitioner in W.P.No.28882 of 1995 is a Guddimalkapur Co-operative Housing society, Hyderabad registered under the A.P. Co-operative Societies Act (herein after referred to as "the Society"). The society purchased some land in S.Nos.311, 312 in Guddimalkapur Village, Golconda Mandal, Hyderabad District in the year 1965 with the object of developing the same and allotting plots for its members. It is asserted that the Society developed a portion of the land and obtained lay-out from the authority and allotted certain plots to some of its members. Before the members could proceed with the construction work and the society could take up other developmental activities, the respondents sought to acquire the land measuring 4683 sq. yards in S.Nos.311 and 312 for the purpose of forming inner ring road. By virtue of said acquisition proceedings, 14 housing plots i.e., 365 to 370, 381 to 386, 413 and 414, measuring 200 sq.yards each i.e., 2800 sq.yards, which were allotted to some of

the members, were affected. In the beginning the society resisted the acquisition of the land on the ground that interest of their members will be badly affected. After a long litigation society could get clearance of the land and could allot the plots to its members. If the land of the society is subjected to any acquisition, the developmental activities of the society will be badly affected. Even before any proceedings could be initiated under the Act, the respondents prevailed upon the society to part with the above land and promised to release the entire compensation amount in lump sum at the time of passing final order within a period of two months and after due negotiations they agreed to pay compensation at the rate of Rs.80/- per sq. yard in lump sum and took possession of the land on 10-11-1985 followed by publication of the notification under Section 4(1) of the Act on 16-11-1985 in the A.P. Gazette. On issuance of the notification, Society participated in the award enquiry and requested the respondents to complete all the formalities by passing the award including payment of compensation. But the respondents instead of completing the formalities as per the agreed terms delayed the matter. In view of the same, the society requested the respondents to release the compensation amount so as to enable it to negotiate with the plot holders. As the respondents did not pay the same, the society requested for payment of compensation in respect of the undisputed land measuring 2483.63 sq.yards, which includes plot Nos.367, 384 and 385. As the respondents declined to pay the compensation on the ground of alleged title dispute, the society had no other alternative except to withdraw their consent for acquiring the land by way of private negotiations at Rs.80/- per sq.yard. But the Land Acquisition Officer passed award on 24-03-1986, but in view of the pending disputes between the society and its members the Land Acquisition Officer referred the matter to the Civil Court under Section 30 of the Act for adjudication of title dispute in O.P.No.348/1986 on the file of I Additional Judge, City Civil Court, Hyderabad. The said OP was disposed of by the Civil Court by its judgment dt.19-07-1994 holding that the society is entitled to land compensation in respect of 2483 sq.yards which includes plot Nos.367, 384 and 385. The Society received the compensation amount under protest and sought reference under Section 18 of the Act along with the copy of judgment on 20-10-1994. But the Land Acquisition Officer through the impugned memo dt.16-2-1995 declined to refer the matter to the Civil Court on the ground that the award was passed by negotiations with the landholders, for which HUDA has an agreement already entered with them and rejected the request for referring the matter to the civil court. Questioning the same, the Society filed WP No.28882/1995.

Two of the members of the society claimed to have allotted plots bearing No.386 and 383 measuring 200 sq.yards each in S.No.312/1 in their favour by the Society filed W.P.No.4793 of 1996. Similarly, three of the members of the petitioner-society claimed to have allotted plots bearing Nos.413, 414 and 369 each in their favour by the Society filed W.P.No.28497 of 1996. Both the writ petitions were filed only on coming to know of the issuance of the memo dt.16-2-1995 issued by the respondent declining to refer the matter to the civil court under Section 18 of the Act, on the ground that the agreement entered into between the Society and the HUDA is not binding on them and they never authorized the society to enter into such an agreement in respect of plots allotted to them. It is further alleged that on receiving compensation under protest, they filed separate applications under Section 18 of the Act on 21-10-1994 for referring the matter to the civil court for enhancement of the compensation, but their request was rejected through the memo dt.16-2-1995. Questioning the correctness of the same, they filed the above writ petitions.

The respondents filed their counter-affidavit while admitting the averments stated in paras 3 to 7 in W.P.No.28882/1996, pleaded that under agreement dated 14-10-1985 entered into between the Secretary of the petitioner-society and the Secretary of the second respondent prior to the initiation of acquisition proceedings, it was agreed that the amount of compensation at Rs.80/- per sq.yards has to be paid/deposited on or before 10-5-1986 i.e., six months period is stipulated in the agreement. For the other land owners whose lands were affected in the forming of inner ring road agreement dt.24-9-1985 was entered into between the pattedar/enjoyers and the respondent No.2 and possession of the lands was also taken on 10-11-1985 and denied the society withdrawing their consent of acquiring the land by way of private negotiations. On completion of award enquiry, award No.1/86 dt.24-3-1986 was passed fixing the compensation at Rs.80/- per sq.yard as agreed including the market value and also solatium. As per the terms of the agreement, amount of compensation awarded was deposited in the court of Chief Judge, City Civil Court, Hyderabad where reference under Sec. 30 of the Act was made. In the agreement, it is clearly stipulated that if the compensation is not paid within six months and in case of delay, the compensation amount shall carry interest at 10% per annum on expiry of period of six months, therefore, the society can only claim interest from 14-04-1986 till 05-05-1986, on which date amount was deposited. The liability to pay interest, if any, ceases thereafter. The Society has not issued any notice to the respondents canceling the agreement dt.14-10-1985 and they are no longer bound by

the agreement. The averment made that they have cancelled the agreement is false and invented as an after thought with a vein to seek reference under Section 18 of the Act, which the petitioners are not entitled to either in law or on facts.

In view of the above pleadings, the questions that arise for consideration in these writ petitions is:

> (1) Whether the petitioners are bound by the agreement entered into between the society and the respondents to part with the land in question on condition that the respondents pay a lump sum amount of Rs.80/- per sq.yard including statutory benefits within a period of 6 months from the date of the agreement not withstanding the fact of the respondents choose to resort to the proceedings of compulsory acquisition proceedings under the Act and can refuse to refer the matter to civil court for enhancement of the compensation in terms of the agreement?

We have heard the learned counsel for the petitioners as well as the learned counsel for the respondents at length.

The entire issue involved centers round the true interpretation of Section 11(2) of the Act, which deals with the award enquiry by the Collector.

The statement of objects and reasons for inserting sub-section (2) of Section 11 of Act No.68/1984 has been succinctly stated to restructure the legislature framework for acquisition of the land in compliance with Article 300A so that it is more adequately informed by the objectives of servicing the interests of the community in harmony with the rights of the individual. Further, the pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic scale of compensation offered as then. Clause (iv) of Statement of objects and reasons catalyzed the purposive insertion of Section 11(2) reads as under:

> "It is proposed to provide that the Collector shall, before making his awards obtain the previous approval of the appropriate Government or any officer of that Government authorized in this behalf. Provision has also been included to empower the Collector to make the award without any enquiry of the persons interested in the acquisition agree in writing on the mattes to be included in the award of the collector in the form prescribed by rules made under the Act."

We may vivify the discussion by quoting the provision of direct concerned in this case. Section 11 reads as follows:

> ***"11.Enquiry and award by Collector:--***(1) On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements, made under Section 8, and into the value of the land at the date of the publication of the notification under Section 4, sub-section (1), and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—
>
> (i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and
(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him; Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorize in this behalf.
Provided further it shall be competent for appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.
(2) Notwithstanding anything contained in sub-section (1) if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) x x x x ;

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act."

It is fairly well settled that reference to the Statement of Objects and Reasons is permissible for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute and the evil, which the statute was sought to remedy.

Article 300A of the Constitution mandates "no person shall be deprived of his property save by authority of law". Thus interference with property rights merely by an executive action without support of a law is unwarranted. An administrative authority can interfere with individual property rights only if there is a law giving it necessary power. Further, it can do so only in accordance with law. Article 300A has been inserted by Constitution (44th Amendment) Act, 1978. Prior to the said amendment, the right to property was guaranteed by Article 31. While clause 1 of Article 31 has been shifted from Part-III, to Article 300A, Clause (2) of that Article, which dealt with compulsory acquisition of property, has been repealed. Consequently sub-clause (f) of clause (1) of Article 19, which guaranteed the right to acquire and hold property, has also been omitted by the same 44th Amendment Act, 1978. The result of these changes, in short, is that the right to hold property has ceased to be a fundamental right under the Constitution of India. If citizens property is taken away by the Executive without the authority of law, he would still be entitled to legal relief on the ground that such executive action is in contravention of Article 300A, but since the provision in the present article has been brought outside the purview of Part-III. The remedy of aggrieved individual would be either under 226 or by a civil suit for deprivation of the same.

Now, we consider the submissions in the context of principles laid down in the judgments on which reliance is placed.

In ***STATE OF KARNATAKA v. SANGAPPA DYAVAPA BIRADAR*** (1 supra) the State of Karnataka intended to acquire the lands of respondents/claimants for the purpose of submergence and construction of canal for the Upper Krishna Project. The parties entered into negotiations, pursuant whereto and in furtherance whereof consent awards were passed by the Special Land Acquisition Officer. The respondents/claimants received the compensation awarded in full satisfaction of their claim but, however, filed applications for reference to the Civil Court in terms of Section 18 of the Act claiming enhanced compensation. On Collector rejecting the prayer for reference writ petitions were filed before the High Court for quashing the rejection order of the Collector and for reference. On dismissal of the writ petitions by the learned single Judge Writ appeals were preferred before the Division Bench. On appeals being preferred by the claimants, the Division Bench of the High Court rejected the contention of the claimants to the effect that the agreement between the parties had not been drawn up in terms of the form prescribed under Rule 10(b) of the Land Acquisition Rules and furthermore did not conform to the requirements of Article 299 of the Constitution. It, however, allowed the writ appeals on the premise that the amount of compensation was not paid to the respondents/claimants in terms of the agreement entered into by and between the parties and in any event, the respondents could not have been deprived of their statutory right of obtaining solatium and interest in terms of the Act. On further appeal by the State, the Supreme Court after noticing its earlier judgments in ***STATE OF GUJARAT v. DAYA SHAMJI BHAI***[2] and ***ASSAM RAILWAYS & TRADING Co. Ltd. v. COLLECTOR OF LAKSHMPUR***[3] held that the condition precedent for maintaining application for reference under Section 18 is non-acceptance of the award by the awardee. Once the claimants accepted the compensation awarded in full satisfaction of their claim are not entitled to claim reference under Section 18 of the Act and set aside the Division Bench judgment while restoring the order of the learned single judge that writ petitions were not maintainable.

In ***DAYA SHAMJI BHAI***'s case (2 supra) Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published on December 18, 1980 acquiring large extent of lands for the purpose of irrigation Dam No. 2 Project. The landowners had given their consent in writing on March 11, 1983 agreeing to

accept the compensation determined by the Land Acquisition Officer and 25 per cent more thereof and also agreed not to seek any reference under Section 18. The market value was determined by the Collector on March 25, 1983, and 25 per cent in addition thereto was awarded. Respondents were paid in terms of the consent agreements signed by the respondents and sanctioned by the Superintending Engineer, Rajkot. Subsequent thereto, the respondent sought for reference under Section 18 on April 26, 1986. The reference Court enhanced the compensation. Feeling aggrieved the State filed appeals to the High Court but unsuccessful and carried the matter before the Supreme Court. On further appeal, the Supreme Court considering Section 23 (1) held that valid reference under Section 18 confers jurisdiction on the Civil Court to consider whether the compensation awarded by the Collector is just and fair. Thereafter, when it finds that the Collector ought to have awarded higher compensation, the Civil Court gets jurisdiction to award statutory benefits on higher compensation from the date of taking possession only. In view of the specific contract made by the respondents in terms of Section 11(2) they are not entitled to seek a reference. Consequently, the Civil Court is devoid of jurisdiction to go into the adequacy of compensation awarded by the Collector or prevailing market value as on the date of notification under Section 4(1) to determine the compensation under Section 23(1) and to grant statutory benefits. By operation of Section 11(4), the need for registration of the agreement is obviated. As seen in the contract, the respondents have forgone their right of seeking reference in lieu of 25% more than the compensation determined by the Collector under Section 11(2) of the Act. In fact, 25 per cent in addition to the market value determined by the Collector in his award under Section 11(1) had been paid as the consideration to forgo reference. Even otherwise, once an agreement was entered by the parties, the question of objection to receive compensation under protest does not arise; so, they have no right to seek a reference to the Civil Court under Section 18 of the Act.

In the case of ***Assam Railways*** (3 supra) before the acquisition proceedings started, the Assam Railway had been negotiating with the company for purchase of the land and prepared to pay Rs.2500/- per bigha for the land. However, the transaction was not completed as the Executive Engineer, Assam Railway, at Dibrugarh pointed out that under the State Railway Rules land from private parties could be acquired only by acquisition proceedings. Thereafter, notification under Section 4 (1) of the Act was published. In the meantime, the Sub-Deputy Collector, Dibrugarh assessed the value at Rupees 1000/- per bigha. After coming to know of the estimate the Chief Administrative Officer of the Railway wrote to the General Manager of the Company

saying that although before the acquisition proceedings started the Railway had agreed to pay Rs.2500/- per bigha, in view of the estimate submitted by the Sub-Deputy Collector, the Railway was not agreeable to pay such a high price. The said letter was followed by another letter in which the Chief Administrative Officer referred to the "gentleman's agreement" about the price, adding that "as a Government concern", they had to "observe certain rules" and that it was "quite impossible" in the circumstances to agree to the price of Rs.2500/- per bigha. On Collector passing the award allowing compensation at the rate of Rs.1000/- per bigha plus statutory benefits, the company being dissatisfied with the award applied for a reference under Section 18 of the Act. The reference Court rejected the same and affirmed the Collector's award. The appeal preferred by the Company was also dismissed. Against which further appeal was preferred before the Supreme Court contending that there was a binding contract between the Company and the Railway for the sale of the land at Rs.2500/- per bigha and that, if it was found that there was no such binding contract there was at least a "gentleman's agreement" regarding the price which indicated what a willing purchaser was ready to pay for the land. The Supreme held that the agreement between the parties about the price is not disputed; whether this amounted to a concluded contract does not seem to us a question that is required to be decided in this appeal. Assuming this was an agreement which bound the parties, the Collector had still the jurisdiction to determine the market value of the land as held by the Privy Council in Fort Press Co. Ltd. v. Municipal Corporation of the City of Bombay, 49 Ind App 331 = (AIR 1942 PC 365), the Privy Council held that an agreement between the parties as to the price does not interfere with the jurisdiction of the Collector under the Land Acquisition Act. Their Lordships observed:

> "It may be a very unusual thing that the (Collector) should proceed to determine what in his view the price should be, after he had evidence of a complete contract on the point, but if he thought right to do as their Lordships' judgment will not affect his taking such a course".

The Privy Council further elaborated the point in Samiullah v. Collector of Aligarh, 73 Ind App 44 = (AIR 1946 PC 75). Having analysed the relevant sections of the Lord Acquisition Act, their Lordships observed:

> "It is clear, therefore, that the land acquisition officer, in awarding the amount of compensation under S.11 is performing a statutory duty, a duty the exercise of which, in cases where land is to be acquired for a public purpose, concerns the public, since it affects the expenditure of public money. In assessing compensation he is bound to exercise his own judgment as to the correct basis of valuation and his judgment cannot be controlled by an agreement between the parties interested. On a reference under Section 18 the District Judge must also exercise his own judgment and consider, among other things, whether the award of the Land Acquisition Officer was based on a correct principle."

By referring the above judgments of the Privy Council, the Apex Court further held that no doubt, in the absence of any other material, the agreed price of land ought to be the basis o the compensation payable but the High court and the Additional District Judge both found in this case that the price of the land did not exist Rs.1,000/- per bigha and accordingly, set aside the judgment of the High Court by remitting the matter to the lower court.

In ***ISHWARLAL PREMCHAND SHAH v. STATE OF GUJARAT***[4] notification under Section 4(1) of the Land Acquisition Act was published dispensing enquiry under Section 5-A and possession was taken and there was an agreement between the parties that an award could be made under Section 11(2) of the Act pursuant to which the Land Acquisition Officer made the award in terms of the agreement dated 04-06-1991. When the landowners challenged the correctness of the award the High Court dismissed the writ petition. The Supreme Court after considering the agreement entered into by the owners on issuance of notification held that it would be open to the parties to enter into contract under Section 11(2) without insisting to determine the compensation under Section 23 (1) and would receive market value at the rates incorporated in the contract signed under Section 11 (2) in which event the award need not be in Form 14. Once the parties have agreed under Section 11 (2) of the Act, the Land Acquisition Officer, has power under Section 11(2) to pass the award in terms thereof and that the award need not contain payment of interest, solatium and additional amount unless it is also part of the contract between the parties. After considering the agreement entered into by the parties it was held that in view of the clauses in the agreements the appellants are not entitled to the payment of additional amounts by way of solatium, interest and additional amount under the provisions of the Act.

After the Land Acquisition Act is amended by Act No.68/1984 by inserting Section 11(2), the Government of Andhra Pradesh framed rules known as Andhra Pradesh Land Acquisition (Negotiations Committee) Rules, 1992 (for short “the Rules”) for enabling the Collector to pass awards according to the terms of agreement entered at any stage of the proceedings, not withstanding anything contained in sub-section (1) of Section 11.

Rule 3 of the Rules envisages action for negotiation shall commence only after enquiry and award by the Collector and approval of preliminary value under Sec.

11 of the Act is completed. Rule 4 prescribes the composition of Negotiation Committee, of which, the District Collector of the concerned District shall be the Chairman and a Judge of the District concerned not below the rank of Sub-Judge as nominated by District Judge/High Court; the Joint Collector of the District or Special Collector of the Project Concerned; The Executive Engineer, Roads and Buildings/Panchayat Raj/Irrigation (wherever structures are involved); a nominee of the requisition department not below the rank of district level officer or any officer authorized by the Government and one retired District Judge to be nominated by the Government shall be the members and Land Acquisition Officer concerned i.e., Special Deputy Collector/Revenue Divisional Officer/Mandal Revenue Officer shall be the Convener. Rule 5 provides causing publication of the notice in Form-I by the Collector or the Covnenor of the Committee in the manner prescribed to the persons interested in the land to appear personally or by person authorized by them before such officer as specified in the notice and to state their willingness or otherwise to settle their claims through the Negotiations Committee. The District Collector/Convenor may in any case require such statement to be made in writing and signed by the party or his agent. Rule 6 provides for filing petitions *suo motu* for the settlement of the claims by the interested persons before the Negotiations Committee for settlement of compensation or for share in the compensation, including in respect of cases pending in any Court. Form-III prescribes the agreement to be executed when the land is acquired for public purposes by agreement between the persons interest and the acquiring body under Section 11(2) r/w Sec. 31(2) of the Act. Form No.IV prescribes an affidavit to be executed by the interested person before the Land Acquisition Officer under Rs.5 non-judicial stamp paper. Rule 8 envisages service of notice in Form-II to the requisitioning department to make a statement that it is willing for settlement of the claims of the pattedars and interested persons by the Negotiations Committee and obtain its statement accordingly and duly signed by a responsible officer authorized by the concerned department in that area.

From a perusal of the above provisions, it is clear that a detailed procedure has been contemplated for entering into agreement on commencement of award enquiry under Section 11 by the Land Acquisition Officer. In other words, the scheme, as referred above, refers to an agreement, which has to be entered under Section 11(2) of the Act only on issuance of notification, but not anterior to the same.

Admittedly, in the case on hand, the agreement, if any entered in between the

requisitioning department and the petitioner in WP No.28882/1995 is prior to issuance of Section 4(1) notification of the Act, but not with the petitioners in W.P.Nos.4793 and 28497 of 1996, who are not parties to the said agreement. Once the matter is referred to Civil Court under Section 30 of the Act and as there is a dispute with regard to the title to whom compensation is payable, agreement, if any, entered by the petitioner in WP No.28882/1995 cannot deprive the members of the society in whose favour lands were allotted to claim compensation. Further, in the agreement, relinquishing the rights of the parties on payment of compensation followed by delivery of possession can only be done by a registered instrument. Only the agreement, which is entered under Section 11(2) of the Act, is exempted from registration under sub-section (4) of section 11 but not any other agreements entered prior to initiation of proceedings under Section 11.

It is settled proposition of law that once statute prescribes a particular act to be done in a particular manner provided under the statute, it has to be done in the same manner prescribed but not otherwise. The agreement dt.14-10-1985 entered by HUDA with the Secretary of the Society, was not in accordance with the procedure prescribed and as per the forms prescribed under the Rules as referred to above, and on which basis the respondents cannot claim the land owners foreclosed the right of seeking reference under Section 18 and can refuse to refer the matter to civil court for determination of market value.

Even if the award is passed as per the agreement entered into between the parties, it is for the civil court to take note of the agreement while determining the market value, if any, but the respondents cannot refuse the request of the petitioners to refer the matter to the civil court, unless a consent award as such is passed as envisaged under Section 11(2) of the Act. In the absence of any such consent award, the respondents are bound to refer the matter to the Civil Court.

In view of the reasons aforementioned, we are of the view that the impugned memo issued by the respondents refusing the request of the petitioners to refer the matter to the civil court on the ground that the award for acquisition of the land was passed as per the agreement entered with the petitioners, cannot be sustainable under law.

In the result, all the writ petitions are allowed and the impugned memo dt.16-2-1995 is set-aside and the respondents are directed to refer the matter to the civil court for due determination of compensation payable to the petitioners forthwith. There

shall be no order as to costs.

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A.GOPAL REDDY,J

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DR.G.YETHIRAJULU,J

-11-2006

Kmr/Murthy

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[1] (2005) 4 SCC 264

[2] (1995) 5 SCC 746

[3] (1976) 3 SCC 24

[4] (1996) 4 SCC 174.